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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/773,210

01/31/2001

John Beeler

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26285

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07/07/2004

KIRKPATRICK & LOCKHART LLP
535 SMITHFIELD STREET
PITTSBURGH, PA 15222

EXAMINER

ZIMMERMAN, BRIAN A

ART UNIT

PAPER NUMBER

2635

8

DATE MAILED: 07/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/773,210

Applicant(s)

BEELE ET AL.

Examiner

Brian A Zimmerman

Art Unit

2635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 1/5/04 and the telephone interview of 6/.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,9,13 and 17 is/are rejected.
- 7) ☒ Claim(s) 3-8,10-12,14-16 and 18-20 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

EXAMINER'S RESPONSE

Status of Application

In response to the a telephone interview on 6/16/04. The examiner has reconsidered the applicant arguments in view of the disclosure and the present state of the prior art. And it is the examiner's position that claims 1,2,9,13,17 are unpatentable for the reasons set forth in this office action:

During an interview 6/16/04, with C. Wolfe, the applicant's representative pointed out that the previous rejection failed to discuss monitoring congestion between the switch and the cell site. The applicant's representative also pointed out that the previous rejection failed to discuss monitoring congestion of paging messages. This Office Action is in direct response to the referenced telephone interview.

Claim Objections

1. Claim 17 is objected to because of the following informalities: the claim does not end with a period. Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1,2,9,13,17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kamm (5457680) in view of the admitted prior art discussed on the top of page 2 of the instant specification.

The applicant states that typically paging messages between the switch and the cell site are limited to one DS0 channel in the T-1 line that connects the switch with the cell site. Since the paging messages are limited to a single channel the bandwidth for these messages is limited. In an analogous art, Kamm discusses a cellular system with limited bandwidth between the switch and the cell site monitors for congestion in order to use flow control procedures when congestion occurs. See col. 13 lines 25-35 and 63+. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have used the flow control system of Kamm in the typical system described by the applicant to monitor and provide flow control for all DS0 channels in the system, thus including the DS0 channel assigned to carry paging messages, since this would prevent errors and provide efficient use of resources.

3. Claims 3-8,10-12,14-16,18-20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

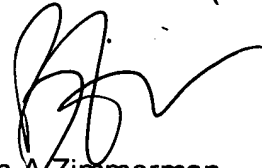
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian A Zimmerman whose telephone

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number is 703-305-4796. The examiner can normally be reached on Off every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mike Horabik can be reached on 703-305-4704. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Brian A. Zimmerman
Primary Examiner
Art Unit 2635

BAZ